



The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES



Thomas S. Burack, Commissioner

March 27, 2007

The Honorable Martha Fuller Clark, Chairman
Energy, Environment and Economic Development Committee
Room 103, Legislative Office Building
Concord, NH 03301

Re: SB 162, relative to establishing a commission to oversee and negotiate issues relative to the North American Free Trade Agreement (NAFTA) and World Trade Organization

Dear Chairman Fuller Clark:

Thank you for the opportunity to comment on SB 162, which would establish a citizens trade policy commission to evaluate the impact of existing and proposed international trade agreements on the ability of the state and municipalities to pass laws and ordinances regarding public health and safety, environmental protection, labor standards, and the provision of public services. The Department of Environmental Services (DES) supports this legislation.

Over the last six years, a number of New Hampshire citizens have expressed concerns and have provided information to DES regarding international trade agreements. These concerns relate to permits for large groundwater withdrawals for bottled water and the purchase of privately owned community water suppliers by foreign-owned companies. Comments provided by the public describe how international trade agreements may either undermine state law and regulations pertaining to the protection of the environment, or make the state subject to financial penalties if DES takes a regulatory action that adversely affects a foreign owned business or a business that exports commodities under an international trade agreement. DES obtained an informal legal opinion from the Department of Justice (DOJ) on this matter in 2002. At that time, the DOJ did not find there was sufficient reason to be concerned about issues pertaining to international trade agreements. However, because of the dynamics associated with the renewal and amendments of trade agreements, and continued public concern, it makes sense for a commission of stakeholders and experts to methodically study this issue.

DES has been working with a legislative Commission to Study Issues Relative to Groundwater Withdrawals. This Commission, with membership from a broad cross-section of stakeholders including DES, was established by Senate Bill 155 of the 2003 legislative session to assess how New Hampshire can improve management of groundwater resources. A subcommittee of the Commission considered the issue of international trade and concluded that due to its legal complexity, this issue should be referred to appropriate legal experts for additional consideration.

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DES notes that there may be merit in including additional members on the commission that would be established by this bill. Issues associated with international trade are complex and legal in nature. For this reason, adding additional representation from the legal community, international associations representing businesses, and international trade centers such as Pease International Tradeport may provide useful opinions and analyses on this important issue. It may also be worthwhile to specifically identify the various types of businesses that rely on utilizing New Hampshire's natural resources (e.g., wood, water, mining materials, etc.), and to ensure that representatives from these industries are included on the commission. Because the commission proposed to be established by this bill will assess the provision of public services, representatives from privately owned utilities and the Public Utilities Commission may also be appropriate.

Thank you for the opportunity to comment in support of this important legislation. If you have any questions or need additional information, please do not hesitate to call Sarah Pillsbury at 271-1168 or me at 271-2958.

Sincerely yours,

A handwritten signature in black ink, which appears to read "Thomas S. Burack". A large, red, diagonal "COPY" stamp is overlaid across the signature.

Thomas S. Burack
Commissioner

cc: Senator Cilley
Senator DeVries
Representative Nord
Representative Splaine
Representative Pilliod